

REMARKS

Claims 1-21, 30 are pending in the application. Claims 1-21, 30 have been rejected by the Examiner. Claims 22-29 and 31 have been cancelled without prejudice. Claims 12 and 30 have been amended to further clarify the invention. No new matter has been added in amending the claims. Reconsideration is respectfully requested.

Drawings

The drawings have been objected to as failing to comply with 37 CFR 1.84(p)(5), because reference numerals 30, 42, 360 and 540a are not present in the description. Figs. 2, 3, 10 and 12 have been amended and replacement Figs. have been submitted. Please substitute the enclosed drawings for the respective originally filed drawings. The objections under 37 C.F.R. § 1.84(p)(5) to Figs. 2, 3, 10 and 12 are now respectfully traversed.

Claim Rejections – 35 U.S.C. § 112

Claim 12 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Particularly, the Examiner found claim 12 was unclear for claiming connecting links that were straight and nonlinear. Claim 12 has been amended to depend from claim 10 instead of claim 11. It is respectfully submitted that the Rejection of claim

12 is now moot because claim 12 depends from claim 10, which does not recite straight connecting links. Claim 12 no longer recites a connecting link with straight and nonlinear properties. Therefore, the nature of the connecting link should no longer be unclear. Applicant respectfully amends and traverses the 35 U.S.C. § 112 rejection to claim 12.

Claim 21 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The Examiner found claim 21 unclear for claiming connecting links that are straight and nonlinear. However, claim 21 claims connecting links that are nonlinear and depends from claim 19 which depends from claim 13. Neither claim 13 nor claim 19 claim bar arms that are linear. Therefore, since claim 21 does not claim connecting links that are nonlinear and straight, the claim is not ambiguous. Applicant respectfully traverses the 35 U.S.C. § 112 rejection to claim 21.

Claim Rejections 35 U.S.C. § 102(e)

Claims 1, 2, 5-11, 13-20, 30 and 31 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,273,911 Cox et al. Specifically, the Examiner's rejection is directed to Fig. 6 of the Cox et al. patent. Fig. 6 has been highlighted to show the elements of the stent as defined by the Examiner. In particular, the highlighted Fig. 6 shows: links, linear bar arms, primary nonlinear bar arms, secondary nonlinear bar arms and crests, wherein the primary and secondary nonlinear bar arms define the crests.

Claim 1 is an independent claim from which claims 2 and 5-11 depend. As stated above the highlighted Fig. 6 of the Cox et al. patent shows crests that are defined by the primary and secondary nonlinear bar arms. However, Fig. 6 does not show linear bar arms in conjunction with nonlinear bar arms defining the crests. Independent claim 1 of the instant application recites, "that the adjacent linear and nonlinear bar arms define the crests." Therefore, it is respectfully submitted that the Cox et al. reference does not anticipate claim 1 because, Cox et al. does not show adjacent linear and nonlinear bar arms defining the crests. Rather, Cox et al. shows nonlinear bar arms that define the crests. Applicant respectfully traverses the anticipation rejection to claims 1,2 and 5-11.

Claim 13 is an independent claim from which claims 14-21 depend. Independent claim 13 of the instant application recites that the adjacent linear and primary nonlinear bar arms define crests within the plurality of rings. Similarly, claim 13 recites that the adjacent linear and secondary nonlinear bar arms define crests within the plurality of rings. As noted above, Fig. 6 indicates that the primary and secondary nonlinear bar arms define the crests in the Cox et al. patent. Fig. 6 does not indicate that the crests are defined by a linear bar arm in conjunction with a nonlinear bar arm. Therefore, it is respectfully submitted that the Cox et al. reference does not anticipate claim 13 because Cox et al. does not show that linear and nonlinear bar arms define the crests. Accordingly, Applicant respectfully traverses the 35 U.S.C. § 102(e) anticipation rejection to claims 13-21.

Independent claim 30 of the instant application, as amended, states that the adjacent linear and non-linear bar arms define the crests. As noted above, Fig. 6 indicates that the crests of the Cox et al. patent are defined by the primary and secondary nonlinear bar arms. Fig. 6 does not indicate that the crests are defined by linear bar arms in conjunction with non-linear bar arms. Therefore, it is respectfully submitted that the Cox et al. reference does not anticipate claim 30 because Cox et al. does not show that the crests are defined by linear and nonlinear bar arms. Applicant respectfully traverses the 35 U.S.C. § 102(e) anticipation rejection to claim 30.

Claim Rejections 35 U.S.C. § 102(b)

Claims 1-4 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Frantzen patent U.S. 5,843,175. Claim 1 is an independent claim, while claims 2-4 are dependent from claim 1.

As highlighted by the Examiner, Fig. 4 of Frantzen has a primary non-linear bar arm, a secondary non-linear bar arm and a linear bar arm. The rings of the Frantzen reference are joined by a linear bar arm from the valley of one ring to the valley of an adjacent ring. The highlighted Fig. 6 of the Frantzen reference shows a series of adjacent ring portions configured in an opposing orientation throughout the stent. Claim 1 of the instant invention as previously amended recites "a repeated series of at least three adjacent ring portions configured in substantially the same orientation throughout the stent." Therefore, since the Frantzen reference discloses a ring orientation that is

different from the ring orientation of the instant invention, the Frantzen reference does not anticipate the instant invention. Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection.

Claim Rejections 35 U.S.C. § 103

Claims 12 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cox et al. in view of U.S. Patent No. 5,925,061, Ogi et al. As stated above Cox et al. discloses a stent having links, linear bar arms, primary nonlinear bar arms, secondary nonlinear bar arms and crests, wherein the primary and secondary nonlinear bar arms define the crests. At Fig. 5a, the Ogi et al. patent discloses nonlinear connecting links connecting ring portions. However, neither Cox et al. nor Ogi et al. disclose crests defined by linear bar arms in conjunction with nonlinear bar arms.

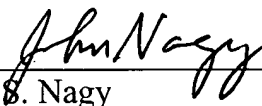
Claim 12, as amended, depends from claim 10, which in turn depends from 9, which depends from claim 2, which depends from claim 1. Therefore, claim 12 incorporates all the limitations of the claims from which it depends, including the limitations of claim 1 which recites, "that the adjacent linear and nonlinear bar arms define the crests." Because the Cox et al. reference does not disclose linear and nonlinear bar arms defining crest, it is respectfully submitted that the Cox et al. reference in view of the Ogi et al. reference does not render claims 12 obvious. Applicant respectfully traverses the 35 U.S.C. § 103 obviousness rejections to claim 12.

Claim 21 depends from claim 19, which depends from claim 13. Therefore, claim 21 incorporates all of the claim limitations of claims 19 and 13. As noted above, claim 13 states that the adjacent linear and primary nonlinear bar arms define crests within the plurality of rings. Similarly, claim 13 states that the adjacent linear and secondary nonlinear bar arms define crests within the plurality of rings. Because the Cox et al. reference does not disclose linear and nonlinear bar arms defining crest, it is respectfully submitted that the Cox et al. reference in view of the Ogi et al. reference does not render claim 21 obvious. Applicant respectfully traverses the 35 U.S.C. § 103 obviousness rejections to claim 21.

It is respectfully submitted that the pending claims 1-3, 5-21, and 30 are allowable. The undersigned attorney can be reached at (310) 824-5555 to facilitate further prosecution of the application. Reconsideration is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
John S. Nagy
Registration No. 30,664

JSN:JML
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
24782.1